Land development permits by local governments

SB 1029 by Armbrister (Campbell)

DIGEST:

SB 1029 would have allowed certain land development projects to proceed under the local regulatory rules in effect at the time the original application for development had been filed. SB 1029 would have allowed preliminary land development plans, subdivision plats, site plans and permits to be considered collectively as one project, if each site plan had been submitted to a regulatory agency within three years after approval of the final plat of the subdivision for such a site plan or the effective date of SB 1029, whichever was later. If a project had been initiated within two years after the last required permit was approved, rules in effect at the time of the original application would have been the sole basis for approval or disapproval for subsequent permits required by the city, for all projects in progress on or commenced after September 1, 1987. Certain permits would have been exempted from these provisions.

SB 1029 would also have allowed the City of Austin to, by ordinance, set deadlines (depending on the size of the project) for when all or part of a preliminary subdivision plan would be required to apply for final plat approval in order to remain subject only to the rules in effect at the time the preliminary plat was filed. The time limit for certain "master planned developments" of 1,500 or more contiguous acres under common ownership could not have been less than 10 years.

GOVERNOR'S REASON FOR VETO:

"Although this bill may have been intended to ensure that government entities do not unfairly change the rules that apply to permitting decisions, the bill extends this sound concept to an unacceptable degree. It would prevent local governments from applying rules or standards to a development project that were not in place when the original application was filed for the subdivision — even though the build-out period for the project might exceed 20 years and involve numerous changes in ownership. In addition, SB 1029 would apply retroactively to September 1, 1987. This situation would create chaos for local governments forced to determine on a case-by-case basis which rules could be applied to specific projects, and would nullify rules and ordinances enacted for many projects.

"This bill would allow most development in the Barton Creek Watershed in Travis County to escape regulation under the City of Austin's water quality ordinances. It would undermine the results of the 1992 local election in which voters overwhelmingly approved a new water quality ordinance. In addition the bill applies to 'all orders, regulations, ordinances, rules or other requirements' imposed by a governing agency. Consequently, it could significantly restrict the ability of local governments to prevent further development of colonias, to preserve historic districts, to control flooding, to address new or increasing pollution problems, to create economic development districts and to encourage development of affordable housing."

RESPONSE:

Sen. Ken Armbrister, the author of SB 1029, had no comment.

Rep. Ben Campbell, the House sponsor, said: "SB 1029 grandfathered subdivision applications for less than five percent of the territory in the Barton Creek watershed. Those applications were filed prior to passage of Austin's notorious S.O.S [Save Our Springs] ordinance and were intended by the Government Code to be exempt from S.O.S. Also SB 1029 will do nothing whatsoever to interfere with the ability of localities to regulate substandard colonias, which is a problem caused mainly by shyster developers. With regard to economic development and affordable housing, the veto of the bill actually will be an obstacle to achieving these goals, since localities will be able to use loopholes in the Government Code to change their rules repeatedly and apply those changes retroactively, thus creating regulatory uncertainty and discouraging investment."

NOTES:

SB 1029 was analyzed in Part Two of the May 19 *Daily Floor Report.*